

# HOUSE BILL No. 1512

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2; IC 31-14; IC 31-15; IC 31-16; IC 31-17.

**Synopsis:** Various family law issues. Establishes a rebuttable presumption that joint legal custody and joint physical custody are in the best interests of a child in dissolution of marriage and paternity cases. Changes the factors that the court uses in determining whether to order joint physical custody and joint legal custody. Entitles a noncustodial parent to certain minimum visitation. Establishes judicial guidelines for ordering visitation. Mandates a seven day jail sentence for each intentional violation of a visitation order. Permits a court to escrow child support funds while a person is not in compliance with a visitation order. Requires a court to refer a dissolution of marriage proceeding to mediation or counseling if there are contested issues. Requires 40 hours of counseling before a court may grant a legal separation or dissolution of marriage. Provides grounds for a custody modification if a person who has been awarded joint physical custody or joint legal custody moves outside the state or at least 100 miles. Requires a court to order a person to pay delinquent support at regular intervals if the other parent is in compliance with court orders. Provides that a judge who fails to comply with certain statutory provisions relating to dissolution of marriage, paternity, custody, or visitation commits official misconduct and: (1) is not entitled to judicial immunity; and (2) may not be represented at the state's expense in an action against the judge for official misconduct. Mandates judges who preside over dissolution and paternity cases to receive 40 hours of training in shared parenting every two years. Repeals certain provisions concerning joint legal custody.

**Effective:** July 1, 2005.

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January 18, 2005, read first time and referred to Committee on Judiciary.



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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1512

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 31-9-2-67 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 67. "Joint legal  
3       custody", for purposes of ~~IC 31-17-2-13, IC 31-17-2-14, and~~  
4       ~~IC 31-17-2-15, IC 31-14-13 and IC 31-17-2,~~ means that the persons  
5       awarded joint custody will share authority and responsibility for the  
6       major decisions concerning the child's upbringing, including the child's  
7       education, health care, and religious training. **The term does not**  
8       **include an equal division of physical custody of the child.**

9       SECTION 2. IC 31-9-2-67.5 IS ADDED TO THE INDIANA CODE  
10      AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
11      1, 2005]: **Sec. 67.5. "Joint physical custody", for purposes of**  
12      **IC 31-14-13 and IC 31-17-2, means that a child's parents share**  
13      **physical custody of the child as equally as possible.**

14      SECTION 3. IC 31-14-1-2 IS ADDED TO THE INDIANA CODE  
15      AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
16      1, 2005]: **Sec. 2. A judge who fails to comply with this article**  
17      **commits official misconduct under IC 35-44-1-2 and:**



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- (1) is not entitled to judicial immunity; and  
 (2) may not be represented at the state's expense in an action against the judge for official misconduct.

SECTION 4. IC 31-14-1-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3. During each two (2) year period that a judge presides over a court with jurisdiction over paternity and dissolution of marriage actions, the judge shall participate in forty (40) hours of training in shared parenting to be conducted by a:**

- (1) professional with expertise in child development; or  
 (2) clinical child psychologist.

SECTION 5. IC 31-14-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3. (a)** If the court finds that a party is delinquent as a result of an intentional violation of an order for support, the court ~~may~~ **shall** find the party in contempt of court.

(b) If an action or request to enforce payment of a child support arrearage is commenced not later than ten (10) years after:

- (1) the child becomes eighteen (18) years of age; or  
 (2) the emancipation of the child;

whichever occurs first, the court may, upon a request by the person or agency entitled to receive child support arrearages, find a party in contempt of court.

**(c) The court shall order a party who is found in contempt of court under this section to pay all delinquent support at regular intervals as ordered by the court if the other party is in compliance with the court orders in the paternity action, including custody and visitation orders.**

~~(c)~~ **(d)** The court may order a party who is found in contempt of court under this section to:

- (1) perform community restitution or service without compensation in a manner specified by the court; or  
 (2) seek employment.

SECTION 6. IC 31-14-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2. (a)** The court shall determine custody in accordance with the best interests of the child. In determining the child's best interests:

- (1) **there is a rebuttable presumption that joint legal custody and joint physical custody are in the best interests of the child; and**  
 (2) **there is not a presumption favoring either parent. The court shall consider all relevant factors, including the following:**

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- (1) The age and sex of the child;
- (2) The wishes of the child's parents;
- (3) The wishes of the child; with more consideration given to the child's wishes if the child is at least fourteen (14) years of age;
- (4) The interaction and interrelationship of the child with:
  - (A) the child's parents;
  - (B) the child's siblings; and
  - (C) any other person who may significantly affect the child's best interest;
- (5) The child's adjustment to home, school, and community;
- (6) The mental and physical health of all individuals involved;
- (7) Evidence of a pattern of domestic or family violence by either parent;
- (8) Evidence that the child has been cared for by a de facto custodian; and if the evidence is sufficient, the court shall consider the factors described in section 2-5(b) of this chapter.

**(b) The court shall order joint physical custody if:**

- (1) the child's parents are willing to advance the child's welfare; and
- (2) the child's parents live in close proximity to each other and plan to continue to do so.

**(c) The court shall order joint legal custody if only one (1) of the child's parents wants physical custody of the child.**

SECTION 7. IC 31-14-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) If an individual who has been awarded **sole or joint** custody of a child under this chapter (or IC 31-6-6.1-11 before its repeal) intends to move to a residence other than a residence specified in the custody order that is outside Indiana or at least one hundred (100) miles from the individual's county of residence, the individual must:

- (1) file a notice of that intent with the clerk of the court that issued the custody order; and
- (2) send a copy of the notice to ~~each noncustodial~~ **the other parent who was awarded joint physical or legal custody of the child, or both, or was not awarded custody and who has been granted visitation rights under IC 31-14-14 (or IC 31-6-6.1-12 before its repeal).**

**(b) If a person with sole or joint physical or joint legal custody moves or intends to move:**

- (1) to a residence other than a residence specified in the custody order and that is outside Indiana; or
- (2) at least one hundred (100) miles from the individual's

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1           county of residence;  
 2           the parent who does not move may initiate a modification of  
 3           custody proceeding under this chapter. The court shall enter an  
 4           order not later than thirty (30) days after the petition described in  
 5           this subsection is filed. The order must grant physical custody of  
 6           the child approximately seventy-five percent (75%) of the time  
 7           each year to the parent who does not move. The remaining  
 8           twenty-five percent (25%) of the time each year, physical custody  
 9           shall be granted to the parent who moves or intends to move.

10          SECTION 8. IC 31-14-14-1 IS AMENDED TO READ AS  
 11          FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A noncustodial  
 12          parent is entitled to reasonable visitation rights **as described in**  
 13          **subsection (d)** unless the court finds, after a hearing, that visitation  
 14          might:

- 15           (1) endanger the child's physical health and well-being; or
- 16           (2) significantly impair the child's emotional development.

17          (b) The court may interview the child in chambers to assist the court  
 18          in determining the child's perception of whether visitation by the  
 19          noncustodial parent might endanger the child's physical health or  
 20          significantly impair the child's emotional development.

21          (c) The court may permit counsel to be present at the interview. If  
 22          counsel is present:

- 23           (1) a record may be made of the interview; and
- 24           (2) the interview may be made part of the record for purposes of  
 25           appeal.

26          **(d) When the court orders visitation under this section, the court**  
 27          **shall order the visitation periods prescribed by IC 31-17-4-1.5**  
 28          **unless the court enters into the record written findings of fact and**  
 29          **conclusions of law that state why disregarding the visitation**  
 30          **periods prescribed by IC 31-17-4-1.5 is appropriate.**

31          SECTION 9. IC 31-14-15-4 IS AMENDED TO READ AS  
 32          FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a)** A court that finds  
 33          a violation without justifiable cause by a custodial parent of an  
 34          injunction or a temporary restraining order issued under this chapter (or  
 35          IC 31-6-6.1-12.1 before its repeal):

- 36           (1) shall find the custodial parent in contempt of court;
- 37           (2) shall order the exercise of visitation that was not exercised due  
 38           to the violation under this section (or IC 31-6-6.1-12.1(e) before  
 39           its repeal) at a time the court considers compatible with the  
 40           schedules of the noncustodial parent and the child;
- 41           **(3) shall order the custodial parent to be confined to the**  
 42           **county jail for seven (7) days for each violation of the court's**

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order;

~~(3)~~ (4) may order payment by the custodial parent of reasonable attorney's fees, costs, and expenses to the noncustodial parent; and

~~(4)~~ (5) may order the custodial parent to perform community restitution or service without compensation in a manner specified by the court.

**(b) When a petition for enforcement of a visitation order is filed, a parent may deposit child support funds in an escrow account of the court clerk. The child support funds must be held in the escrow account until the court finds that the visitation order is complied with.**

SECTION 10. IC 31-15-1-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3. A judge who fails to comply with this chapter commits official misconduct under IC 35-44-1-2 and:**

**(1) is not entitled to judicial immunity; and**

**(2) may not be represented at the state's expense in an action against the judge for official misconduct.**

SECTION 11. IC 31-15-1-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4. During each two (2) year period that a judge presides over a court with jurisdiction over paternity and dissolution of marriage actions, the judge shall participate in forty (40) hours of training in shared parenting to be conducted by a:**

**(1) professional with expertise in child development; or**

**(2) clinical child psychologist.**

SECTION 12. IC 31-15-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3. Dissolution of marriage shall be decreed upon a finding by a court of one (1) of the following grounds and no other ground:**

**(1) Irretrievable breakdown of the marriage.**

**(2) The conviction of either of the parties, subsequent to the marriage, of a felony.**

**(3) Impotence, existing at the time of the marriage.**

**(4) Incurable insanity of either party for a period of at least two (2) years.**

**However, the court may not decree a dissolution of marriage unless the parties have participated in at least forty (40) hours of court approved counseling sessions.**

SECTION 13. IC 31-15-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 15. (a) At the final**

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hearing on a petition for dissolution of marriage, the court shall consider evidence, including agreements and verified pleadings filed with the court. If the court finds that the material allegations of the petition are true **and that the parties have participated in at least forty (40) hours of court approved counseling sessions**, the court:

(1) shall enter a dissolution decree as provided in section 16 of this chapter; or

(2) if the court finds that there is a reasonable possibility of reconciliation, may continue the matter and order the parties to seek reconciliation through any available counseling.

(b) At any time forty-five (45) days after the date of a continuance:

(1) either party may move for the dissolution of the marriage; and

(2) the court may enter a dissolution decree as provided in section 16 of this chapter.

(c) If no motion for the dissolution is filed, the matter shall be, automatically and without further action by the court, dismissed after the expiration of ninety (90) days from the date of continuance.

SECTION 14. IC 31-15-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Legal separation shall be decreed upon a finding by a court:

(1) that conditions in or circumstances of the marriage make it currently intolerable for both parties to live together; and

(2) that the marriage should be maintained.

**However, the court may not decree a legal separation unless the parties have participated in at least forty (40) hours of court approved counseling sessions.**

SECTION 15. IC 31-15-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The court ~~may~~ **shall** require the parties **in a dissolution of marriage action** to seek **forty (40) hours of counseling for themselves or for a child of the parties** under ~~such~~ terms and conditions that the court considers appropriate if:

(1) ~~either party makes a motion for counseling in an effort to improve conditions of their marriage;~~

(2) ~~a party; the child of the parties; the child's guardian ad litem or court appointed special advocate; or the court makes a motion for counseling for the child; or~~

(3) ~~the court makes a motion for counseling for parties who are the parents of a child less than eighteen (18) years of age.~~

**before the court may decree a dissolution of marriage.**

SECTION 16. IC 31-15-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. Notwithstanding any other law, all orders and awards contained in a dissolution of

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marriage decree or legal separation decree: ~~may~~

(1) **shall** be enforced by

~~(1)~~ contempt; **and**

(2) **may be enforced by:**

~~(2)~~ (A) **an** assignment of wages or other income; or

~~(3)~~ (B) any other remedies available for the enforcement of a court order;

except as otherwise provided by this article.

SECTION 17. IC 31-15-9.4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Whenever the court issues an order under this article, other than an ex parte order, the court shall determine whether the ~~proceeding should be referred to mediation. In making this determination, the court shall consider:~~

~~(1) the ability of the parties to pay for the mediation services; and~~

~~(2) whether mediation is appropriate in helping the parties resolve their disputes.~~

**parties have any contested issues. If the parties have contested issues, the court shall refer the proceeding to mediation or counseling.**

SECTION 18. IC 31-16-1-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. A **judge who fails to comply with this chapter commits official misconduct under IC 35-44-1-2 and:**

(1) **is not entitled to judicial immunity; and**

(2) **may not be represented at the state's expense in an action against the judge for official misconduct.**

SECTION 19. IC 31-16-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Notwithstanding any other law, all orders and awards contained in a child support decree or an order directing a person to pay a child support arrearage: ~~may~~

(1) **shall** be enforced by contempt, including the provisions under section 6 of this chapter; **and**

(2) **may be enforced by:**

~~(2)~~ (A) **an** assignment of wages or other income; or

~~(3)~~ (B) any other remedies available for the enforcement of a court order;

except as otherwise provided by IC 31-16-2 through IC 31-16-11 or this chapter.

SECTION 20. IC 31-16-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) If the court finds that a party is delinquent as a result of an intentional violation of an order for support, the court ~~may~~ **shall** find the party in contempt of

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1 court. If an action or request to enforce payment of a child support  
2 arrearage is commenced not later than ten (10) years after:

- 3 (1) the child becomes eighteen (18) years of age; or  
4 (2) the emancipation of the child;

5 whichever occurs first, the court may, upon a request by the person or  
6 agency entitled to receive child support arrearages, find a party in  
7 contempt of court.

8 **(b) If the court finds a party in contempt of court under this**  
9 **section, the court shall order the party to:**

- 10 (1) pay the delinquent support at regular intervals; and  
11 (2) perform community restitution or service without  
12 compensation in a manner specified by the court;

13 **if the other party is in compliance with all court orders in the**  
14 **dissolution of marriage proceedings, including custody and**  
15 **visitation orders.**

16 ~~(b)~~ (c) The court may order a party who is found in contempt of  
17 court under this section to

- 18 ~~(1) perform community restitution or service without~~  
19 ~~compensation in a manner specified by the court; or~~  
20 ~~(2) seek employment.~~

21 SECTION 21. IC 31-17-1-3 IS ADDED TO THE INDIANA CODE  
22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
23 1, 2005]: **Sec. 3. A judge who fails to comply with this chapter**  
24 **commits official misconduct under IC 35-44-1-2 and:**

- 25 (1) is not entitled to judicial immunity; and  
26 (2) may not be represented at the state's expense in an action  
27 against the judge for official misconduct.

28 SECTION 22. IC 31-17-2-8 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The court shall  
30 determine custody and enter a custody order in accordance with the  
31 best interests of the child. In determining the best interests of the child,  
32 **there is a rebuttable presumption that joint legal custody and joint**  
33 **physical custody are in the best interests of the child.** There is no  
34 presumption favoring either parent. The court shall ~~consider all~~  
35 ~~relevant factors; including the following:~~

- 36 ~~(1) The age and sex of the child;~~  
37 ~~(2) The wishes of the child's parent or parents;~~  
38 ~~(3) The wishes of the child, with more consideration given to the~~  
39 ~~child's wishes if the child is at least fourteen (14) years of age;~~  
40 ~~(4) The interaction and interrelationship of the child with:~~  
41 ~~(A) the child's parent or parents;~~  
42 ~~(B) the child's sibling; and~~

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(C) any other person who may significantly affect the child's best interests.

(5) The child's adjustment to the child's:

(A) home;

(B) school; and

(C) community.

(6) The mental and physical health of all individuals involved.

(7) Evidence of a pattern of domestic or family violence by either parent.

(8) Evidence that the child has been cared for by a de facto custodian; and if the evidence is sufficient, the court shall consider the factors described in section 8.5(b) of this chapter:

**order joint physical custody if:**

(1) the child's parents are willing to advance the child's welfare; and

(2) the child's parents live in close proximity to each other and plan to continue to do so.

**(b) The court shall order joint legal custody if only one (1) of the child's parents wants physical custody of the child.**

SECTION 23. IC 31-17-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) If an individual who has been awarded **sole or joint** custody of a child under this chapter intends to move to a residence:

(1) other than a residence specified in the custody order; and

(2) that is outside Indiana or at least one hundred (100) miles from the individual's county of residence;

the individual must file a notice of the intent to move with the clerk of the court that issued the custody order and send a copy of the notice to **a the other parent who was awarded joint physical or joint legal custody of the child, or both, or was not awarded custody and who has been granted visitation rights under IC 31-17-4 (or IC 31-1-11.5-24 before its repeal).**

**(b) If a person with sole or joint physical or joint legal custody, or both, moves:**

(1) to a residence other than a residence specified in the custody order and that is outside Indiana; or

(2) at least one hundred (100) miles from the individual's county of residence;

**the court shall grant physical custody of the child approximately seventy-five percent (75%) of the time each year to the parent who does not move and who initiates a custody modification proceeding under this chapter. The remaining twenty-five percent (25%) of**

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the time each year, physical custody shall be granted to the parent who moves or intends to move.

~~(b)~~ (c) Upon request of either party, the court shall set the matter for a hearing for the purposes of reviewing and modifying, if appropriate, the custody, visitation, and support orders. The court shall take into account the following in determining whether to modify the custody, visitation, and support orders:

(1) The distance involved in the proposed change of residence.

(2) The hardship and expense involved for noncustodial parents to exercise visitation rights.

~~(c)~~ (d) Except in cases of extreme hardship, the court may not award attorney's fees.

SECTION 24. IC 31-17-4-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1.5. (a) This section applies when the court does not order joint physical custody under IC 31-14-13-2 or IC 31-17-2-8.

(b) The court shall order the visitation periods prescribed by this section unless the court enters into the record written findings of fact and conclusions of law that state why disregarding the visitation periods prescribed by this section is appropriate.

(c) The noncustodial parent is entitled to exercise visitation at reasonable times and places. However, if the parties are not able to agree on the times and places for exercising reasonable visitation, the minimum visitation to which the noncustodial parent is entitled is as follows:

(1) Alternating weekends from 6 p.m. Friday until 7 p.m. Sunday.

(2) In years ending in an odd number:

(A) from 6 p.m. until 9 p.m. the night before the child's birthday, during which period the noncustodial parent is simultaneously entitled to visitation with the child whose birthday is the following day and any sibling of the child with whom the noncustodial parent has visitation rights;

(B) Memorial Day weekend from 6 p.m. Friday until 7 p.m. Monday;

(C) Independence Day holiday from 6 p.m. July 3 until 7 p.m. July 5;

(D) Thanksgiving holiday from 6 p.m. Wednesday until 7 p.m. Sunday;

(E) Christmas holiday from 5 p.m. to 11 p.m. on Christmas Eve and from 6 p.m. December 26 until 7 p.m. January 1;

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(F) Martin Luther King, Jr. holiday from 7 p.m. on the day before the state holiday until 7 p.m. on the state holiday.

**(3) In years ending in an even number:**

(A) the child's birthday, during which period the noncustodial parent is simultaneously entitled to visitation with the child having the birthday and any sibling of the child with whom the noncustodial parent has visitation rights;

(B) Easter weekend from 6 p.m. Good Friday until 7 p.m. Easter Sunday;

(C) Labor Day weekend from 6 p.m. Friday until 7 p.m. Monday;

(D) Halloween evening from 6 p.m. until 9 p.m.;

(E) Christmas holiday from 6 p.m. December 20 until 6 p.m. December 26 except for the period from 5 p.m. to 11 p.m. on Christmas Eve; and

(F) the child's spring break from school.

**(4) The noncustodial parent's birthday.**

**(5) Mother's Day weekend if the noncustodial parent is the child's mother or Father's Day weekend if the noncustodial parent is the child's father.**

**(6) This subdivision applies to visitation with a child who is an infant or preschool age. Two (2) weeks in June and two (2) weeks in July:**

(A) as chosen by the noncustodial parent; and

(B) to be determined by May 1 of each year.

**Visitation by the custodial parent is not permitted during the periods specified under this subdivision.**

**(7) This subdivision applies to visitation with a child who is school age. Two (2) nonconsecutive three (3) week periods:**

(A) to be chosen by the noncustodial parent; and

(B) to be determined by May 1 of each year.

**Visitation by the custodial parent is not permitted during the periods specified under this subdivision. The custodial parent is also entitled to a similar period with the child without interruption as described in this subdivision.**

**(d) When the noncustodial parent exercises visitation, at the beginning of each visitation period the noncustodial parent shall pick up the child at the residence of the custodial parent or at a mutually agreed upon location. At the end of each visitation period, the custodial parent shall pick up the child at the residence of the**

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1 noncustodial parent or at a mutually agreed upon location. Each  
 2 parent shall have the child available for visitation and the child's  
 3 return to the custodial parent's home at the appropriate time.

4 (e) The noncustodial parent shall give the custodial parent three  
 5 (3) days prior notice if the noncustodial parent does not intend to  
 6 exercise visitation. However, if an emergency situation exists, the  
 7 noncustodial parent must give notice to the extent possible under  
 8 the circumstances.

9 (f) Each parent is encouraged to allow family situations,  
 10 including weddings or funerals of close family members, to take  
 11 precedence over the visitation guidelines under this section.

12 (g) The court shall order each parent to supply the other parent  
 13 with an accurate and current residence address and telephone  
 14 number. The court shall order each parent to allow the other  
 15 parent liberal but reasonable telephone and mail privileges with  
 16 the child.

17 (h) The court shall order the custodial parent to do the  
 18 following:

19 (1) Provide copies of all school and medical reports to the  
 20 noncustodial parent not later than ten (10) days after  
 21 receiving the reports.

22 (2) Immediately notify the noncustodial parent about a  
 23 medical emergency.

24 (3) Inform the noncustodial parent of school and social  
 25 functions permitting parental participation not later than  
 26 twenty-four (24) hours after the custodial parent learns about  
 27 the function.

28 (i) The noncustodial parent is entitled to attend a school or  
 29 social function of the child, regardless of whether the function  
 30 occurs during the noncustodial parent's visitation period. A  
 31 custodial parent may not prohibit a child from attending a school  
 32 function as the result of the custodial parent's inability to attend  
 33 the function when the noncustodial parent is available to supervise  
 34 the child at the function. When the custodial parent is unable to  
 35 attend a school function with the child, the noncustodial parent  
 36 may attend the function with the child.

37 (j) A parent may not deny visitation or child support as a result  
 38 of the other parent's failure to comply with a court order.

39 SECTION 25. IC 31-17-4-8 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) A court that finds  
 41 an intentional violation without justifiable cause by a custodial parent  
 42 of an injunction or a temporary restraining order issued under this

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chapter (or IC 31-1-11.5-26 before its repeal):

(1) shall find the custodial parent in contempt of court;

(2) shall order the exercise of visitation that was not exercised due to the violation under this section at a time the court considers compatible with the schedules of the noncustodial parent and the child;

**(3) shall order the custodial parent confined in the county jail for seven (7) days for each violation of the court's order;**

~~(3)~~ **(4)** may order payment by the custodial parent of reasonable attorney's fees, costs, and expenses to the noncustodial parent; and

~~(4)~~ **(5)** may order the custodial parent to perform community restitution or service without compensation in a manner specified by the court.

**(b) When a petition for enforcement of a visitation order is filed, a noncustodial parent may deposit child support payments in an escrow account of the court clerk. The child support payments shall be held in the escrow account until the court finds that the visitation order is complied with.**

SECTION 26. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 31-17-2-13; IC 31-17-2-14; IC 31-17-2-15.

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